

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

In Re: Deborah Owen
Michael Owen, Sr.
Debtors.

Case No. 18-10973
Chapter 13

MOTION FOR RELIEF FROM
AUTOMATIC STAY PURSUANT TO
11 U.S.C. SECTION 362(d)(1)

Ford Motor Credit Company LLC, a secured creditor in the above-captioned bankruptcy case, by its counsel, Lynda Laing, Esq., as and for a Motion for Relief from Automatic Stay pursuant to 11 U.S.C. Section 362(d)(1), states the following as grounds therefore:

1. On June 1, 2018, the debtors, above-named, filed a voluntary petition in Bankruptcy under Title 11, Chapter 13, U.S.C., in the United States Bankruptcy Court, for the District of Rhode Island.
2. The Court has jurisdiction to entertain this motion under 28 U.S.C. Section 157.
3. Ford Motor Credit Company LLC is a secured creditor herein and the holder of a duly perfected purchase money security interest in one (1) 2011 Dodge Ram with VIN # ending 6106 (hereinafter "collateral") owned by, and upon information and belief, in the possession and control of the debtors, above-named.
4. Pursuant to 11 U.S.C. Section 362, upon the commencement of the instant bankruptcy case, Ford Motor Credit Company LLC is stayed from taking any action against the debtors to obtain possession of the collateral.
5. On December 24, 2013, the debtors, Deborah Owen and Michael Owen, Sr., entered into a Retail Installment Contract (hereinafter "Contract") with Tasca Auto Group (hereinafter "dealer") for the purchase of the collateral. Pursuant to the terms and conditions of the Contract, Ford Motor Credit Company LLC was granted a purchase money security interest in the collateral. Thereafter, the

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Contract, pursuant to its terms, was duly assigned by the dealer to Ford Motor Credit Company LLC for good and valuable consideration. Ford Motor Credit Company LLC is now the holder and owner of said Contract.

6. As of April 3, 2019, the debtors were in default of their payment obligations to Ford Motor Credit Company LLC pursuant to the terms and conditions of the Contract as follows:

- a. Payoff balance: \$10,509.54
- b. Post-petition arrears: \$998.35 (plus contractual late charges)

(NOTE: The foregoing does not represent any amount which may be due for costs and attorneys' fees as may be allowed by the Court.)

7. Upon information and belief, the value of the collateral is depreciating.

8. The debtors have failed to elect to redeem the collateral and have not sought to reaffirm their underlying obligations to Ford Motor Credit Company LLC.

9. It is respectfully asserted that Ford Motor Credit Company LLC's interest in the collateral will not be adequately protected if the automatic stay is allowed to remain in effect.

10. Accordingly, sufficient cause exists to grant Ford Motor Credit Company LLC relief from the automatic stay herein which includes, but is not limited to, the following:

- a. The debtors are in default under the terms and conditions of the Retail Installment Contract.
- b. The security interest of Ford Motor Credit Company LLC with respect to the collateral is not adequately protected as envisioned under 11 U.S.C. Section 361.
- c. The debtors do not possess an equity interest in the collateral.
- d. The collateral is not necessary for an effective reorganization of a bankruptcy estate.

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11. It is respectfully submitted that Ford Motor Credit Company LLC is in a more advantageous position to obtain an optimum price for the sale of the collateral thereby increasing the possibility of generating a surplus for distribution to creditors of the estate.

12. No prior application for the relief requested herein has been made.

WHEREFORE, Ford Motor Credit Company LLC respectfully requests that the Court issue an Order, pursuant to 11 U.S.C. Section 362 granting Ford Motor Credit Company LLC relief from automatic stay in order to obtain possession of its collateral, and for such other and further relief as to the Court may seem just and proper.

DATED: April 3, 2019

FORD MOTOR CREDIT COMPANY LLC
By its counsel:

/s/ Lynda Laing

Lynda Laing, Esq. #3082
Strauss, Factor, Laing & Lyons
One Davol Square, Suite 305
Providence, RI 02903
Tel. (401) 456-0700
Fax. (401) 421-4730

Within fourteen (14) days after service, if served electronically, as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if served by mail or other expected means specified, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATION OF SERVICE

I hereby certify that on April 4, 2019, I electronically filed the Motion and proposed Order with the Clerk of the Bankruptcy Court for the District of Rhode Island using the CM/ECF System. The following participants have received notice electronically; Office of the US Trustee, Janet Goldman, Esquire, John Boyajian, Esquire, Tatyana Tabachnik, Esquire, and Bernard Lemos, Esquire; and I hereby certify that I have mailed by United States Postal Service, postage prepaid, the document and a copy of the Notice of Electronic Filing to the following:

Deborah Owen
44 Raven Circle
Cranston, RI 02921

Michael Owen, Sr.
44 Raven Circle
Cranston, RI 02921

American Express
Co Becket & Lee
PO Box 3001
Malvern, PA 19355

PRA Receivables Management LLC
PO Box 41021
Norfolk, VA 23541

/s/ Lynn Morrison
Lynn Morrison

Re: Deborah Owen
Case No. 1:05-bk-13638

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND**

IN RE: **Deborah Owen**
Michael Owen, Sr.
Debtors **Bankruptcy No.: 18-10973**
Chapter 7

ORDER GRANTING MOTION FOR RELIEF FROM STAY
Re: 2011 DODGE RAM WITH VIN # ENDING 6106

On _____, Creditor Ford Motor Credit Company LLC, filed a Motion for Relief from the Automatic Stay pursuant to 11 U.S.C. §362(d)(1), after filing proof of service herein, and there being no objection to the motion filed,

It is hereby ORDERED,

That the Motion for Relief from the Automatic Stay is **GRANTED**; and it is further ORDERED, that the automatic stay instituted upon the filing of the petition for an Order for relief by the debtors, is terminated in that it shall not apply to any action by the above petitioning creditor to recover possession and dispose of its collateral, namely 2011 Dodge Ram with VIN # ending 6106; and it is further

ORDERED, that the 14-day stay imposed under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure applies.

ORDER:

ENTER:

By:
Deputy Clerk

Diane Finkle
US Bankruptcy Judge
Date:

PRESENTED BY:
By their attorneys,
STRAUSS, FACTOR, LAING & LYONS

Re: Deborah Owen
Case No. 1:05-bk-13638

/s/ Lynda Laing

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